

Remarks

Claims 1-10 are under consideration and are the only claims of this application. There are no allowed claims.

Rejections under 35 USC 112, first paragraph and Objections under 35 USC 132

Claims 1-10 are rejected under 35 USC 112, first paragraph, as containing new matter.

The Amendment filed September 17, 2001 is objected to under 35 USC 132 as introducing new matter.

Said Amendment corrected the nomenclature of the compound of working Example 18 on page 30 of the specification. The Amendment does not add new matter, rather it corrects a nomenclature error. As the compound of Example 18 is stated to be prepared according to Example 16 replacing propyl bromide with 1,6-dibromohexane and provides a compound with a mass of 651, it is apparent that the original nomenclature was incorrect. The term "propyl" was deleted and the correct term "ethyl" was inserted.

A Declaration under Rule 132 by Dr. Glen Cunkle is attached herewith, in which it is stated that the compound N,N,N',N'-tetramethyl-N,N'-bis-[3-(1-oxyl-2,2,6,6-tetramethylpiperidin-4-yloxy)-ethyl]-hexamethylenediammonium dibromide is the only compound obtained by the procedure of present Example 18.

Applicants submit that the amendment correcting the name of the compound of working Example 18 does not introduce new matter, but rather simply harmonizes the specification.

Further, such amendment does not change the scope of the claims when read in view of the specification. Both the incorrect "propyl" and the correct "ethyl" compounds fall within the scope of generic formula VIII of claim 1.

In view of this discussion and the Cunkle Declaration, Applicants submit that the 35 USC 112, first paragraph and 35 USC 132 objections are addressed and are overcome.

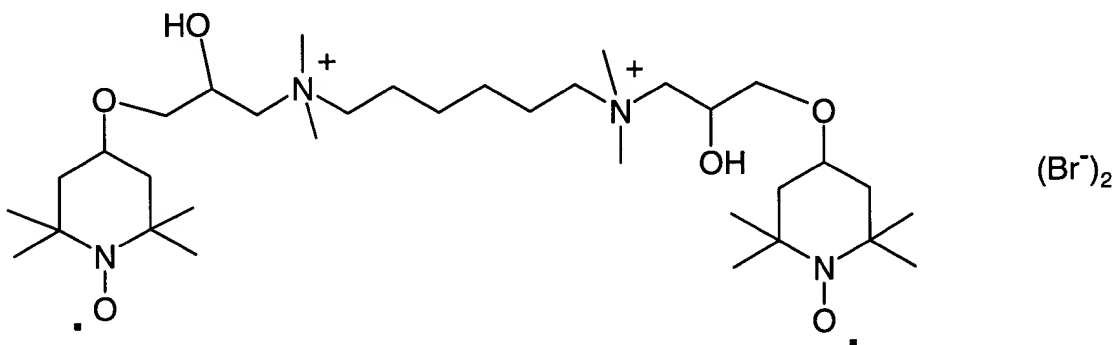
Rejections under 35 USC 103(a)

Claims 1-10 remain rejected under 35 USC 103(a) as obvious over WO 9905108 (WO '108).

Applicants respectfully traverse these rejections.

The Examiner states that compound (g) on page 55 of WO '108 is N,N,N',N'-tetramethyl-N,N'-bis-[3-(1-oxyl-2,2,6,6-tetramethylpiperidin-4-yloxy)-**propyl**]-hexamethylenediammonium dibromide. It is not, but rather is N,N,N',N'-tetramethyl-N,N'-bis-[3-(1-oxyl-2,2,6,6-tetramethylpiperidin-4-yloxy)-2-**hydroxypropyl**]-hexamethylenediammonium dibromide.

The structure of compound (g) of WO '108 is provided below:



The present compounds of formula VIII do not have any secondary hydroxy groups as does this compound. There is no overlap of the compound (g) of page 55 of WO '108 with the compounds of the present claims.

Further, there is no possible overlap of the compounds of the present claims with those disclosed in WO '108.

In light of the fact that there is no possible overlap of the compounds of the present claims with the disclosure of WO '108, Applicants submit that the present claims cannot be obvious thereover.

In view of this discussion, Applicants submit that the 35 USC 103(a) rejections are addressed and are overcome.

In light of all of the present remarks and the Cunkle Declaration, Applicants aver that the rejections under 35 USC 112, first paragraph and 35 USC 103(a) and the objections under 35 USC 132 are each addressed and are overcome.

The Examiner is kindly requested to reconsider and to withdraw the present claim rejections and objections.

Applicants submit that the present claims are in condition for allowance and respectfully request that they be found allowable.

Applicants also point out that U.S. Patent No. 6,254,724, filed with the RCE April 29, 2002, is equivalent to WO 9905108.

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Respectfully submitted,



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Attachment: Declaration under Rule 132